

## REMARKS

Claims 1-5 and 7-24 are pending in the application and are presented for the Examiner's review and consideration. In this Response, claims 1, 15 and 23 have been amended. Applicants believe that the claim amendments and the accompanying remarks serve to clarify the present invention and are independent of patentability.

### Specification

The amendment filed August 1, 2007 was objected to under 35 U.S.C. §132(a) as introducing new matter into the disclosure. More specifically, the rejection claimed that "the gear being connected to the lower arm section having an axis substantially *aligned* with the central longitudinal axis of the humerus" added material which was not supported by the original disclosure. In response, Applicants have replaced the term "aligned" with the term "coincidental." Support for the term "coincidental" can be found, for example, in ¶0075 of Applicant's specification. Accordingly, Applicants respectfully submit that this rejection should be withdrawn.

### 35 U.S.C. §112 Rejection

Claims 1-24 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. For the reasons set forth below, Applicants respectfully submit that this rejection should be withdrawn.

The rejection stated that there was no support in the specification for the gear being connected to the lower arm section having an axis substantially *aligned* with the central longitudinal axis of the humerus. However, the rejection did acknowledge that the specification does provide support for the gear being connected to the lower arm section having an axis *coincidental* with the central longitudinal axis. In response, Applicants have amended the claims

Applicant: Bonutti et al.  
Application No.: 10/760,598  
Examiner: M. Brown

by replacing the term "aligned" with the term "coincidental." Accordingly, Applicants respectfully submit that this rejection should be withdrawn.

#### Conclusion

In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

A fee for a one month extension for reply is believed due. However, please charge any additional fees (or credit any overpayment of fees) to the Deposit Account of the undersigned, Account No. 503410 (Docket No. 780-A04-006-3).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "P. D. Bianco", with a stylized flourish at the end.

Paul D. Bianco, Reg. # 43,500

Customer Number: 33771  
Paul D. Bianco  
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO  
21355 East Dixie Highway, Suite 115  
Miami, Florida 33120  
Tel: 305-830-2600; Fax: 305-830-2605  
e-mail: [pbianco@focusonip.com](mailto:pbianco@focusonip.com)